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Human Rights Committee

Concluding observations on the third periodic report of Bulgaria

Addendum

Information received from Bulgaria on follow-up to the concluding observations*

[Date received: 11 February 2015]

Paragraph 8:

1. In 2012, five persons were sentenced for crimes related to police violence. The sentences were appealed to a higher court of cassation. Court proceedings have not been completed and there is no final court decisions entered into force. For the same reasons, the sentences pronounced in 2013 against two of the eight convicted persons have not entered into force.

2. The Bulgarian authorities do not maintain information about the convicted persons by type of crime. In the information system of the Prosecutor's Office, the data are selected solely on the grounds of "crimes related to police violence".

Paragraph 11:

3. The use of physical force, auxiliary means and firearms is regulated by Art. 85 - 88 of the Ministry of Interior Act. These articles regulate the cases for use of a physical force, auxiliary means and firearms by the police officers and define the principles of absolute necessity, proportionality, guarantees for protection of the life and health of the person and immediate stop after achieving the lawful objective, among others. Under Art. 87, Para 7 of the Act, the official shall prepare a report.

4. According to the Ordinance of the Ministry of Interior for the order of the use of auxiliary means by the officials of the Ministry of Interior, in all cases of use of auxiliary

* *The present document is being issued without formal editing.*

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means the official who used them shall prepare a written report and/or the manager who ordered their use. The report includes the name, position and place of work of the official; the place, date and time of the use of auxiliary means; the type and quantity; the circumstances and the grounds for their use; if possible – data identifying the person/s against whom they were used; the measures undertaken against the person/s; as well as the direct consequences of the use of the auxiliary means.

5. The reporting of accidents and casualties is regulated in the Instruction on the discipline and the disciplinary practices in the Ministry of Interior. Every incident involving unlawful actions of the police officials against citizens, as well as incidents involving persons brought and detained in the structures of the Ministry of Interior should be reported immediately following the chain-of-command and to the units on duty and to the management of the respective structure of the Ministry of Interior. All accidents and casualties are reported immediately in writing following the chain-of-command and it is also obligatory to inform the respective Human Resources Unit in the place of work of the official who is involved in the accident. Every accident or casualty is followed by an investigation to establish the reasons and circumstances for their occurrence. The officials who have committed disciplinary violations which contain data for crimes are sanctioned in a disciplinary procedure and copies of the collected evidence are sent to the respective competent Prosecutor's office.

Paragraph 21:

6. The draft Law amending the Judiciary System Act is scheduled for submission to the Council of Ministers in the first half of 2015. The proposals regarding the implementation of e-justice and magistrates' caseload have been published on the website of the Ministry of Justice for the purpose of broad public discussion.

7. The focus in the draft Law amending the Judiciary System Act is set on the following basic principles:

- Separating judges and prosecutors in the work of the Supreme Judicial Council and its commissions in deciding on personnel issues: recruitment, appraisal, disciplinary procedures, ethical issues so as to take account of the specifics of the status of judges and prosecutors
- Transparency and openness in the election of administrative heads
- Developing the procedures for recruitment and career development of magistrates
- Increasing the effectiveness of disciplinary proceedings

8. The recommendation of measures to be taken by the Government to raise awareness on issues related to the independence of the judiciary and aimed at the judiciary authorities, law enforcement officials and/or the society as a whole, is contained in the road map for implementing the recommendations in the report of the European Commission under the Mechanism for Cooperation and Verification. The road map is envisaged to develop a Communication Strategy of the Judiciary, as well as self-referral of the Supreme Judicial Council in the case of "sensitive" messages in the mass media related to events and actions of magistrates violating ethical rules.

9. In January 2015, an Updated Strategy to continue the reform of the judiciary was approved by the National Assembly. The aim of the Strategy is, within the next seven years, to build on state efforts to modernize the judiciary and complete the reform by:

- Achieving guarantees of independence of the court and the judiciary by taking effective measures against corruption, political and economic pressures and other dependencies
- Ensuring good governance of the judicial authorities and high efficiency of their operation by improving the organization and methodology of conducting competitions for appointment and promotion of magistrates; reforming legal education; and conducting periodic surveys of opinions of judges on the administration of the judiciary and public presentation of their results
- Developing the potential of the human resources of the judiciary and ensuring high competence, social responsibility and motivation of judges, prosecutors and investigators by enhancing analytical capacity and ensuring uniformity and reliability of statistics on the work of the judiciary and pretrial proceedings; implementing a permanent mechanism to measure the seriousness of different types of cases and additional obligations; and programme budgeting for each structure of the institutions of the judiciary, and e-Justice
- Implementing a modern penal policy and the necessary institutional and regulatory reforms by adopting a modern Code of Administrative Offences and Penalties; assessing the need to update specific institutes and elements essential to the Criminal Code and developing a corresponding project; carrying out a reform and developing the investigation authorities; taking measures to increase the efficiency of the Prosecutor's Office; making an analysis of costs and benefits of an independent specialized Prosecutor's Office and Specialized Criminal Court; and elaborating an action plan for penitentiary reform
- Ensuring a fair trial for every citizen and effective protection of human rights by developing constitutional and legislative amendments introducing the direct constitutional complaint; introducing measures to tackle the causes of the guilty verdicts before the European Court of Human Rights and compliance with international human rights standards; developing the system of legal aid; promoting restorative justice approaches; and establishing specialized children's court chambers in the judiciary authorities.